

FILED

FEB 23 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES BONINI, Clerk
CINCINNATI, OHIO

CIVIL ACTION NO. C-1-00-869

MARK R. HOOP and
LISA J. HOOP

PLAINTIFFS/
COUNTERCLAIM DEFENDANTS

V.

MOTION FOR ORDER REGARDING NOTICE BY/TO
U.S. PATENT AND TRADEMARK AND COPYRIGHT OFFICES

JEFFREY W. HOOP, STEPHEN E. HOOP, and
HOOPSTERS ACCESSORIES, INC.

DEFENDANTS/
COUNTERCLAIM PLAINTIFFS

The Jury having rendered a unanimous verdict in favor of Defendants/Counterclaim Plaintiffs, Jeffrey W. Hoop, Stephen E. Hoop, and Hoopsters Accessories, Inc. ("Defendants"), and against Plaintiffs/Counterclaim Defendants, Mark R. Hoop and Lisa J. Hoop ("Plaintiffs"), and the Clerk having entered a Judgment in this civil action on February 11, 2004, Defendants/Counterclaim Plaintiffs, Jeffrey W. Hoop, Stephen E. Hoop, and Hoopsters Accessories, Inc. (collectively "Defendants"), by counsel, moves the Court for an Order, as follows:

1. U.S. Design Patent No. Des. 431,211 be and is **DECLARED** invalid and unenforceable.
2. The Director of the Patent and Trademark Office be and is **ORDERED** to publish a notice in the official Gazette of the United States Patent and Trademark Office informing the public that Plaintiffs' patent, U.S. Design Patent No. Des. 431,211, is invalid and unenforceable.
3. Plaintiffs be and are **ORDERED** to file a written disclaimer of any right in or to the ornamental designs and invention encompassed by U.S. Design Patent Nos. Des. 431,211 or 428,831.

4. Defendants be and are **DECLARED** to be the true and sole inventors of the ornamental design and invention claimed, described, and shown in U.S. Patent Nos. Des. 431,211 and 428,831.
5. Defendants be and are **GRANTED** a permanent injunction against further infringement of Defendants' U.S. Patent No. Des. 428,831 by Plaintiffs, together with their agents, attorneys, employees, representatives, and servants, as well as any other entity or individual in active concert or participation with them.
6. Plaintiffs' copyright(s) regarding and/or relating to the eagle design, whether individually and/or jointly, including, without limitation, U.S. Copyright Registration No. VAu 490-992 and 494-540, be are **DECLARED** invalid.
7. Defendants be and are **GRANTED** a permanent injunction against further use of any and all copyrights regarding the eagle design, including without limitation, U.S. Copyright Registration No. VAu 490-992 and 494-540, by Plaintiffs, together with their agents, attorneys, employees, representatives, and servants, as well as any other entity or individual in active concert or participation with them.

WHEREFORE, Defendants, by counsel, respectfully request the Court for an Order as set forth above.

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By:

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Counsel for Defendants/
Counterclaim Plaintiffs
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NOTICE

The foregoing Motion for Order Regarding Notice By/To U.S. Patent and Trademark and Copyright Offices will be heard at the convenience of this Honorable Court.

STELLA B. HOUSE
ATTORNEY AT LAW, P.S.C.

By: Stella B. House, J.D.
Stella B. House, J.D.
Counsel for Defendants/
Counterclaim Plaintiffs

CERTIFICATE OF SERVICE

I certify that an accurate copy of the Motion for Order Regarding Notice By/To U.S. Patent and Trademark and Copyright Offices was sent to Alfred J. Mangels, Esq., Co-Counsel for Plaintiffs/Counterclaim Defendants, 4729 Cornell Road, Cincinnati, Ohio 45241, and Timothy A. Magee, Esq., Co-Counsel for Plaintiffs/Counterclaim Defendants, 130 Sherman Drive, Findlay, Ohio 45840, by United States mail, postage prepaid, on February 19, 2004.

STELLA B. HOUSE
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